

Remarks

Reconsideration is respectfully requested.

The rejection of claims 12-23 and 28 is respectfully traversed as follows.

The applicant notes from the Information Disclosure Citation form attached to the Office Action that the Examiner appears to be relying on the Opinion in *Chemical Separation Technology, Inc. v. United States*, 45 Fed. Cl. 513, 53 U.S.P.Q.2d 1419 (1999). The Applicant respectfully points out that at this juncture a more recent Opinion, which the applicant has already submitted, in *Chemical Separation Technology, Inc. v. United States*, 63 U.S.P.Q. 1152 2d (2002) is more apposite. At 63 U.S.P.Q.2d 1156 it was held, after considering all prior art of record including the prior art cited by the Examiner in the office action, that claims 8-23 and 22 in U.S. Patent No. 5,370,800 which correspond to claims 12-23 and 28 in the present application are valid. The claims in the present application have, therefore, been amended to conform them to this Opinion.

The Applicant furthermore points out that the claims in the present application relate specifically to a predominantly copper waste stream. The waste stream in the Keystone plant was predominantly iron. The waste streams in the Paheire et al. and Inglis references were also not predominantly copper. Nothing in the art prior to the critical date of the present application or when the Applicant first began his experiments on a predominantly copper waste stream (after the critical date) would have taught or suggested to one of ordinary skill in the art that the method of the present invention would have been useful in flocculating copper compounds in a predominantly copper waste stream.


In, fact, the Applicant maintains that flocculation is a relatively unpredictable occurrence with previously untried materials; and that one of ordinary skill in the art, on the critical date of this Application, would not have been able to accurately predict that flocculation would occur in a predominantly copper waste stream in the same way that it occurs, within the critical limits of the method of the present invention recited in Claim 7, in a

predominantly iron waste stream. The Applicant points out that U.S. Patent No. 4,298,169, for example, which was known on the critical date of this application and when applicant first began his experiments on a predominantly copper waste stream, discloses the preferential flocculation of ferromagnetic materials under certain circumstances.

A new Terminal Disclaimer over the term of U.S. Patent No. 5,370,800 is enclosed. It is believed that the \$65.00 fee for the terminal disclaimer was submitted by a credit card charge form on May 18, 2005, but another fee is submitted herewith.

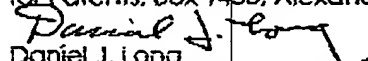
It is believed that the application is now in condition for allowance. If the Examiner believes that any matters are still at issue, he is urged to contact Applicant's undersigned attorney.

Respectfully submitted,

  
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I certify that this correspondence is being transmitted by facsimile 571-271<sup>3</sup>8300 to Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450 on June 21, 2006.

  
Daniel J. Long  
Date 6/21/06 